

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

THOMAS CANHAM,)
Plaintiff,)
vs.)
PERFORMANT RECOVERY, INC.,)
Defendant.)

COMPLAINT

INTRODUCTION

1. Plaintiff Thomas Canham brings this action to secure redress from unlawful credit and collection practices engaged in by defendant Performant Recovery, Inc. (“PRI”). Plaintiff alleges violation of the Fair Debt Collection Practices Act, 15 U.S.C. §1692 et seq. (“FDCPA”).

VENUE AND JURISDICTION

2. This Court has jurisdiction under 15 U.S.C. §1692k (FDCPA), 28 U.S.C. §1331 and 28 U.S.C. §1337.

3. Venue and personal jurisdiction in this District are proper because:

- a. Defendant’s collection communications were received by plaintiff within this District; and
- b. Defendant does or transacts business within this District.

PARTIES

4. Plaintiff Thomas Canham is an individual who resides in the Northern District of Illinois.

5. Defendant PRI, is a California corporation with an office located at 333 North Canyons Pkwy., Suite 100, Livermore, California 94551. Its registered agent and office is CT Corporation System, 818 W. Seventh Street, Los Angeles, California 90017.

6. PRI is engaged in the business of using the mails and telephone to collect

consumer debts originally owed to others.

7. PRI is a debt collector as defined in the FDCPA.

FACTS

8. In September 2013, PRI placed a number of calls to Thomas Canham to collect an alleged education debt supposedly owed to Department of Education.

9. On October 7, 2013, plaintiff, by counsel, sent a letter to PRI asking for verification of the alleged debt and advising PRI that plaintiff was represented by counsel. A copy of the letter and transmission report is attached as Exhibit A.

10. By letter of October 30, 2013 (Exhibit B), PRI acknowledged receipt of Exhibit A.

11. Thereafter, PRI continued contacting Plaintiff, namely placing telephone calls to him on November 12, 2013 (2 calls) and November 18, 2013.

COUNT I – FDCPA

12. Plaintiff incorporates paragraphs 1-11.
13. Defendant violated 15 U.S.C. §1692c by contacting a represented party directly.

14. Section 1692c provides:

§ 1692c. Communication in connection with debt collection

(a) Communication with the consumer generally. Without the prior consent of the consumer given directly to the debt collector or the express permission of a court of competent jurisdiction, a debt collector may not communicate with a consumer in connection with the collection of any debt—

... (2) if the debt collector knows the consumer is represented by an attorney with respect to such debt and has knowledge of, or can readily ascertain, such attorney's name and address, unless the attorney fails to respond within a reasonable period of time to a communication from the debt collector or unless the attorney consents to direct communication with the consumer; ...

WHEREFORE, the Court should enter judgment in favor of plaintiff and against defendant for:

- (1) Statutory and actual damages;
- (2) Attorney's fees, litigation expenses and costs of suit;
- (3) Such other and further relief as the Court deems proper.

/s/ Daniel A. Edelman
Daniel A. Edelman

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VERIFICATION

The undersigned declares under penalty of perjury, as provided for by 28 U.S.C. §1746, that the facts stated in the foregoing complaint are true to the best of his knowledge and belief.


Thomas Cernham

NOTICE OF LIEN AND ASSIGNMENT

Please be advised that we claim a lien upon any recovery herein for 1/3 or such amount as a court awards. All rights relating to attorney's fees have been assigned to counsel.

/s/ Daniel A. Edelman
Daniel A. Edelman

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